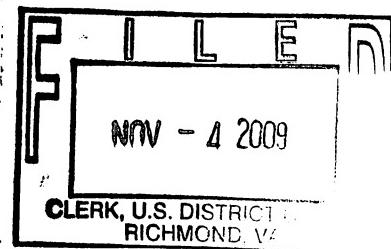


UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION



**DONNA K. SOUTTER,  
For herself and on behalf of all  
similarly situated individuals.**

**Plaintiff,**

**v.**

**CIVIL ACTION NO.**

*3:09CV695*

**EXPERIAN INFORMATION SOLUTIONS, INC.,**

**Defendant.**

**CLASS COMPLAINT**

COMES NOW, the Plaintiff, Donna K. Soutter, on behalf of herself and all similarly situated individuals, and alleges the following claims:

**INTRODUCTION**

1. This action is brought under the Federal Fair Credit Reporting Act (FCRA), 15 U.S.C. §1681, *et seq.* Plaintiff obtained a copy of her credit report from Experian and discovered that it was reporting a judgment against Plaintiff in favor of Virginia Credit Union in the Richmond General District Court. This reporting was inaccurate as the judgment had been vacated. Experian violated the FCRA, 15 U.S.C. §1681e(b) by failing to establish or to follow reasonable procedures to assure maximum possible accuracy in the preparation of the Plaintiff's credit reports and credit files it publishes and maintains concerning the Plaintiff and by failing to establish a process to systemically pick up vacated, satisfied or appealed judgments. In addition Plaintiff violated FCRA, 15 U.S.C. §1681i(a) on multiple occasions by failing to conduct a

reasonable reinvestigation to determine whether the disputed information is inaccurate. Plaintiff also seeks to represent a class of similar situated consumers.

### **JURISDICTION**

2. The Court has jurisdiction under the FCRA, 15 U.S.C. §1681p and 28 U.S.C. §1367 and §1331.

3. Venue is proper in this Court under 28 U.S.C. § 1391(b) as the Defendant regularly does business in the district and division. Experian Information Solutions, Inc. also maintains its registered agent in Richmond. Plaintiff resides in this district.

### **PARTIES**

4. Donna K. Souter (hereinafter “Souter”) resides in Virginia and she is a “consumer” as protected and governed by the FCRA.

5. Experian Information Solutions, Inc.(hereinafter “Experian”) is an Ohio corporation, doing business in Virginia, and specifically in Richmond. At all times relevant hereto, it was a “user” of the consumer report of Plaintiff, as governed by the FCRA.

6. Experian is a “consumer reporting agency” as governed by the FCRA.

### **FACTS**

7. Prior to December, 2008, Plaintiff obtained a copy of her credit report from Experian and discovered that Experian was reporting a judgment against Plaintiff in favor of Virginia Credit Union in the Richmond General District Court.

8. The reporting of the judgment was inaccurate. Plaintiff did not have a judgment entered against her. A more thorough review of the public records would reveal that there was an Order entered by the Court on March 2, 2008 which set aside and dismissed the judgment because the

judgment was obtained against the Plaintiff in error, a copy of which Order Plaintiff included in her dispute letter to Experian.

9. On or about December 15, 2008, Plaintiff disputed the inaccurate public information which was being reported.

10. On January 8, 2009, Experian responded to Plaintiff's December 15, 2008 dispute by acknowledging notice of same and by stating that Experian had verified and updated the reporting of the judgment.

11. Defendant received, but ignored the Plaintiff's dispute letter and did refuse to delete the inaccurate information regarding the public records reporting from the Plaintiff's credit file.

12. Defendant had actual knowledge of the inaccuracy and deliberately chose to ignore and permit same.

13. After receiving Plaintiff's notices of the inaccuracy and within the two years preceding the filing of this action, Experian prepared and published to third parties multiple inaccurate consumer reports about Plaintiff which contained the inaccurate public record.

14. Plaintiff provided substantial documentation to Experian demonstrating that the reporting of the judgment was inaccurate.

15. After Plaintiff had actual knowledge of the inaccurate reporting of the judgment, Experian still continued to publish the inaccurate public records within Plaintiff's credit file.

16. Experian has furnished to third parties multiple consumer reports regarding the Plaintiff that contained the inaccurate public records information alleged herein.

## CLASS ACTION ALLEGATIONS

**17. The Class.** Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiff brings this action for herself and on behalf of a class (the “Class”) initially defined as follows:

All consumers for whom Experian furnished a consumer report which reported a judgment in the Richmond General District Court as unpaid that was either set aside, vacated, or appealed or dismissed with prejudice prior to the date of this reporting.

**18. Numerosity. FED. R. CIV. P. 23(a)(1).** On information and belief, the Plaintiff alleges that Class members are so numerous that joinder of all is impractical. The names and addresses of the Class members are identifiable through documents maintained by the Defendant, and the Class members may be notified of the pendency of this action by published and/or mailed notice.

**19. Existence and Predominance of Common Questions of Law and Fact. FED. R. CIV. P. 23(a)(2).** Common questions of law and fact exist as to all members of the Class. These questions predominate over the questions affecting only individual members. These common legal and factual questions include, among other things:

- a. Whether Experian’s standard procedures to update Richmond General District Court judgments that have been vacated, set aside, appealed or dismissed were reasonable.
- b. Whether Experian knowingly and intentionally committed an act in conscious disregard of the rights of the consumer;
- c. Whether Defendant’s conduct constituted violations of FCRA.

**20. Typicality. FED. R. CIV. P. 23(a)(3)).** Plaintiff’s claims are typical of the claims of each Class member. Plaintiff is entitled to relief under the same causes of action as the other members of the Class.

**21. Adequacy. FED. R. CIV. P. 23(a)(4).** Plaintiff is an adequate representative of the Class because her interests coincide with, and are not antagonistic to, the interests of the members of the Class she seeks to represent; she has retained counsel competent and experienced in such litigation; and she intends to prosecute this action vigorously. The interests of members of the Class will be fairly and adequately protected by Plaintiff and his counsel.

**22. Superiority. FED. R. CIV. P. 23(b)(3).** Questions of law and fact common to the Class members predominate over questions affecting only individual members, and a class action is superior to other available methods for fair and efficient adjudication of the controversy. It would be virtually impossible for the members of the Class individually to redress effectively the wrongs done to them. Even if the members of the Class themselves could afford such individual litigation, it would be an unnecessary burden on the Courts. Furthermore, individualized litigation presents a potential for inconsistent or contradictory judgments and increases the delay and expense to all parties and to the court system presented by the complex legal and factual issues raised by Defendant's conduct. By contrast, the Class action device will result in substantial benefits to the litigants and the Court by allowing the Court to resolve numerous individual claims based upon a single set of proof in a case.

**23. Injunctive Relief Appropriate for the Class. FED. R. CIV. P. 23(b)(2).** Class certification is appropriate because Defendant has acted on grounds generally applicable to the Class, making appropriate equitable injunctive relief with respect to Plaintiff and the Class members.

**COUNT ONE: VIOLATION OF THE FCRA, § 1681i(a)**

**CLASS CLAIM**

24. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.
25. Defendant, Experian willfully violated 15 U.S.C. §1681i(a) on multiple occasions by failing to conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate.
26. Plaintiff seeks statutory damages and attorneys fees and costs for herself and all putative class members for this violation pursuant to the FCRA, 15 U.S.C. § 1681n(a)(1)(A).
27. Plaintiff seeks punitive damages for this violation pursuant to the FCRA, 15 U.S.C. §1681n(a)(2) for herself and all putative class members.

**COUNT TWO: VIOLATION OF THE FCRA, § 1681e(b)**

**CLASS CLAIM**

28. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.
29. Defendant violated 15 U.S.C. §1681e(b) as to the Plaintiff and all class members by failing to establish or to follow reasonable procedures to assure maximum possible accuracy in the preparation of the consumer reports it furnished regarding the consumer who has a vacated, satisfied or appealed Richmond General District Court judgment.
30. Defendant's conduct, actions and inactions were willful, rendering Defendant liable for damages, including punitive damages, as well as attorneys fees and costs, in an amount to be

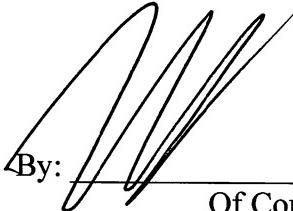
determined by the Court pursuant to 15 U.S.C. §1681n or §1681o.

WHEREFORE, Plaintiff and the Class Members pray for relief as follows:

1. an order certifying the proposed class herein under Federal Rule 23 and appointing Plaintiff and his undersigned counsel of record to represent same;
2. the creation of a common fund available to provide notice of and remedy Defendant's violations;
3. damages and punitive damages for the class claims;
4. damages and punitive damages for the individual claims;
5. injunctive and declaratory relief as pled;
5. attorneys fees, expenses and costs;
6. pre-judgment and post-judgment interest as provided by law; and
7. such other relief the Court does deem just, equitable and proper.

TRIAL BY JURY IS DEMANDED.

DONNA K. SOUTTER,  
For herself and on behalf of all similarly situated  
individuals.

By:   
\_\_\_\_\_  
Of Counsel

Leonard A. Bennett, VSB#37523  
Consumer Litigation Associates, P.C.  
12515 Warwick Boulevard, Suite 100  
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(757) 930-3660  
(757) 930-3662 facsimile  
[lenbennett@clalegal.com](mailto:lenbennett@clalegal.com)

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[matt@clalegal.com](mailto:matt@clalegal.com)

• JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

3:09CV695

<b>I. (a) PLAINTIFFS</b> Donna K. Soutter, for herself and on behalf of all similarly situated individuals. <b>(b) County of Residence of First Listed Plaintiff</b> <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small>		<b>DEFENDANTS</b> Experian Information Solutions, Inc.  <small>County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)</small>					
<small>(c) Attorney's Firm Name, Address, and Telephone Number)</small> <b>Leonard A. Bennett, Consumer Litigation Associates, PC</b> <small>12515 Warwick Blvd., Suite 100, Newport News, VA 23606</small>		<small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED</small>					
<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)		<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (For Diversity Cases Only) (Place an "X" in One Box for Plaintiff and One Box for Defendant)					
<input checked="" type="checkbox"/> U.S. Government Plaintiff <input checked="" type="checkbox"/> Federal Question (U.S. Government Not a Party)		PTF      DEF Citizen of This State      • • 1      • • 1 Incorporated or Principal Place of Business In This State					
<input type="checkbox"/> U.S. Government Defendant <input checked="" type="checkbox"/> Diversity <small>(Indicate Citizenship of Parties in Item III)</small>		PTF      DEF Citizen of Another State      • • 2      • • 2 Incorporated and Principal Place of Business In Another State      • • 5      • • 5					
		Citizen or Subject of a Foreign Country      • • 3      • • 3 Foreign Nation      • • 6      • • 6					
<b>IV. NATURE OF SUIT</b> (Place an "X" in One Box Only)							
<b>CONTRACT</b> <input checked="" type="checkbox"/> 110 Insurance <input checked="" type="checkbox"/> 120 Marine <input checked="" type="checkbox"/> 130 Miller Act <input checked="" type="checkbox"/> 140 Negotiable Instrument <input checked="" type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input checked="" type="checkbox"/> 151 Medicare Act <input checked="" type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input checked="" type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input checked="" type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input checked="" type="checkbox"/> 195 Contract Product Liability <input checked="" type="checkbox"/> 196 Franchise	<b>TORTS</b> <b>PERSONAL INJURY</b> <input checked="" type="checkbox"/> 310 Airplane <input checked="" type="checkbox"/> 315 Airplane Product Liability <input checked="" type="checkbox"/> 320 Assault, Libel & Slander <input checked="" type="checkbox"/> 330 Federal Employers' Liability <input checked="" type="checkbox"/> 340 Marine <input checked="" type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input checked="" type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury  <b>REAL PROPERTY</b> <input checked="" type="checkbox"/> 210 Land Condemnation <input checked="" type="checkbox"/> 220 Foreclosure <input checked="" type="checkbox"/> 230 Rent Lease & Ejectment <input checked="" type="checkbox"/> 240 Torts to Land <input checked="" type="checkbox"/> 245 Tort Product Liability <input checked="" type="checkbox"/> 290 All Other Real Property	<b>FORFEITURE/PENALTY</b> <b>PERSONAL PROPERTY</b> <input checked="" type="checkbox"/> 370 Other Fraud <input checked="" type="checkbox"/> 371 Truth in Lending <input checked="" type="checkbox"/> 380 Other Personal Property Damage <input checked="" type="checkbox"/> 385 Property Damage Product Liability  <b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input checked="" type="checkbox"/> 443 Housing/ Accommodations <input checked="" type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment <input checked="" type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>BANKRUPTCY</b> <b>PROPERTY RIGHTS</b> <input checked="" type="checkbox"/> 610 Agriculture <input checked="" type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 630 Liquor Laws <input checked="" type="checkbox"/> 640 R.R. & Truck <input checked="" type="checkbox"/> 650 Airline Regs. <input checked="" type="checkbox"/> 660 Occupational Safety/Health <input checked="" type="checkbox"/> 690 Other	<b>OTHER STATUTES</b> <b>LABOR</b> <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input checked="" type="checkbox"/> 720 Labor/Mgmt. Relations <input checked="" type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input checked="" type="checkbox"/> 740 Railway Labor Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input checked="" type="checkbox"/> 861 HIA (1395f) <input checked="" type="checkbox"/> 862 Black Lung (923) <input checked="" type="checkbox"/> 863 DIWC/DIWW (405(g)) <input checked="" type="checkbox"/> 864 SSID Title XVI <input checked="" type="checkbox"/> 865 RSI (405(g))	<b>FEDERAL TAX SUITS</b> <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input checked="" type="checkbox"/> 871 IRS—Third Party 26 USC 7609	• 400 State Reapportionment • 410 Antitrust • 430 Banks and Banking • 450 Commerce • 460 Deportation • 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit • 490 Cable/Sat TV • 810 Selective Service • 850 Securities/Commodities/ Exchange • 875 Customer Challenge 12 USC 3410 • 890 Other Statutory Actions • 891 Agricultural Acts • 892 Economic Stabilization Act • 893 Environmental Matters • 894 Energy Allocation Act • 895 Freedom of Information Act • 900 Appeal of Fee Determination Under Equal Access to Justice • 950 Constitutionality of State Statutes
<b>V. ORIGIN</b> (Place an "X" in One Box Only)		• 1 Original Proceeding      • 2 Removed from State Court      • 3 Remanded from Appellate Court      • 4 Reinstated or Reopened      • 5 Transferred from another district (specify)		• 6 Multidistrict Litigation      • 7 Appeal to District Judge from Magistrate Judgment			
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <b>15 U.S.C. §1681</b>							
<b>VI. CAUSE OF ACTION</b> Brief description of cause: <b>Violation of the Fair Credit Reporting Act</b>							
<b>VII. REQUESTED IN COMPLAINT:</b>		<input checked="" type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23		DEMAND \$ <small>CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes      <input type="checkbox"/> No</small>			
<b>VIII. RELATED CASE(S) IF ANY</b>		<small>(See instructions):</small>		JUDGE      DOCKET NUMBER			
DATE			SIGNATURE OF ATTORNEY OF RECORD				
<small>FOR OFFICE USE ONLY</small>							

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IPP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

# CONSUMER LITIGATION ASSOCIATES

ATTORNEYS AND COUNSELORS AT LAW

A PROFESSIONAL CORPORATION

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Fairfax, Virginia 22030

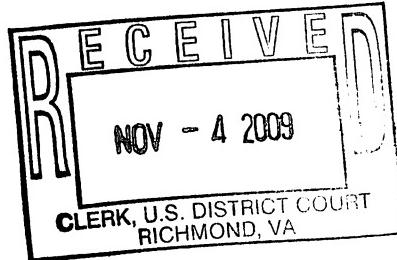
**REPLY TO: HAMPTON ROADS OFFICE**

November 3, 2009

**Federal Express Delivery**

Fernando Galindo, Clerk  
United States District Court  
Richmond Division  
701 East Broad Street  
Suite 3000  
Richmond, Virginia 23219

3. OACV 695



Re: Donna K. Souter, for herself and on behalf of all similary situated individuals v. Experian Information Solutions, Inc.

Dear Mr. Galindo:

Enclosed please find the following with regard to the above-referenced matter which I would kindly appreciate your filing and processing for service:

1. Original Civil Cover Sheet.
2. Original and one copy of the Summons in a Civil Action for each Defendant.
3. Original and one copy of the Complaint.
4. Filing fee check in the amount of \$350.00, payable to Clerk of Court.

Please forward the service copies of the Summons and Complaint back to my attention for service through my private process server.

Thank you for your assistance in this matter, I remain

Very truly yours,

  
Leonard A. Bennett

LAB/vlw  
Enclosure

Court Name: UNITED STATES DISTRICT COURT  
Division: 3  
Receipt Number: 34683005868  
Cashier ID: lbreden  
Transaction Date: 11/04/2009  
Payer Name: CONSUMER LITIGATION ASSOC

CIVIL FILING FEE  
For: CONSUMER LITIGATION ASSOC  
Amount: \$350.00

CHECK  
Check/Money Order Num: 10690  
Amt Tendered: \$350.00

Total Due: \$350.00  
Total Tendered: \$350.00  
Change Amt: \$0.00

#3:09-CV-695